State of California—Health and Human Services Agency
Department of Health Services

California Department of Health Services

SANDRA SHEWRY
Director

ARNOLD SCHWARZENEGGER
Governor

DATE: June 8, 2005 **PPL No. 05-005**

TO: LOCAL EDUCATIONAL CONSORTIUM COORDINATORS AND LOCAL GOVERNMENTAL AGENCY COORDINATORS FOR THE MEDI-CAL ADMINISTRATIVE ACTIVITIES AND TARGETED CASE MANAGEMENT PROGRAMS

SUBJECT: CERTIFIED PUBLIC EXPENDITURE REQUIREMENTS FOR FEDERAL FINANCIAL PARTICIPATION FOR TARGETED CASE MANAGEMENT

The purpose of this Policy and Procedure Letter (PPL) is to clarify the requirements for reimbursement of claims for Targeted Case Management (TCM) services. This PPL seeks to eliminate any potential misunderstanding regarding the laws and regulations surrounding Certified Public Expenditure (CPE), and to ensure that Local Educational Consortia (LEC) and Local Governmental Agencies (LGA) participating in TCM are accurately reimbursed. Because existing relevant information is incomplete, this PPL supersedes PPLs 98-004 and 98-023. The Department of Health Services (DHS) plans to revise the charts from those PPLs discussing revenue offset and expects to release them as new PPLs.

In 2003, the Centers for Medicare and Medicaid Services (CMS) informally began to communicate their concerns to DHS regarding the funding for TCM services provided by LGAs and Community-Based Organizations (CBO) based on financial management reviews by federal auditors. A letter from CMS dated November 17, 2003, deferred nearly $2.4 million in federal TCM reimbursements. The following is an excerpt from that letter:

> “We [CMS] found that some of the counties participating in TCM may be using private funds as the State’s share of the payments. The state has not been able to provide documentation showing that the TCM payments made to all counties are allowable in accordance with 42 CFR 433.51, which requires public funds as the State share of financial participation.”

1501 Capitol Avenue, Suite 71.6086, MS 4000, P.O. Box 997413
Sacramento, CA 95899-7413
(916) 440-7800 Fax: (916) 440-7805
www.dhs.ca.gov

CMS has continued to defer selected invoices for TCM on the same basis. The current amount of deferrals is over $8.1 million (based on claims submitted to CMS as of December 31, 2003). Although CMS continues to defer TCM claims, it has the option of disallowing them ninety (90) days after the deferral notice. In accordance with Welfare & Institution (W&I) Code, Section 14132.44(j)(2), DHS would be required to recoup any TCM payments made to LGAs that were subsequently disallowed by CMS. In addition, DHS would have the option to withhold payments of related invoices until the federal disallowance issue was resolved. Strict compliance with federal law and regulation regarding CPEs is necessary in order to minimize the risk of federal disallowances, recoupment, or withhold by the State.

Laws and Regulations

The legal basis for claiming most federal Medicaid reimbursement, including TCM, is found in Title XIX of the Social Security Act, Section 1903(a),[1] which provides, in part, that the federal government shall pay to the State a percentage "of the total amount expended" for providing medical assistance, which includes TCM services.

Title 42 of the Code of Federal Regulations (42 CFR), Section 433.51, which is based on the authority of Section 1903(a), provides:

(a) Public funds may be considered as the State's share in claiming Federal Financial Participation (FFP) if they meet the conditions specified in paragraphs (b) and (c) of this section.

(b) The public funds are appropriated directly to the State or local Medicaid agency, or transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for FFP under this section.

(c) The public funds are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds.

Similarly, 42 CFR Section 433.10(a) provides:

> Sections 1903(a)(1), 1903(g), and 1905(b) provide for payments to States, on the basis of a Federal medical assistance percentage, for part of their expenditures for services [TCM] under an approved State plan.

[1] 42 U.S.C. § 1396b(a).

Taken together, these laws mean that a governmental entity may certify to DHS qualifying expenditures it has made to provide TCM services. DHS uses the certification to claim FFP in an amount calculated by multiplying the certified amount by the federal medical assistance percentage (FMAP) for California (currently 50 percent).

A qualifying expenditure is an expenditure that has been made for covered services provided to an eligible beneficiary. The amount that can be certified is the amount expended by the governmental entity. The amount certified is not the "non-federal share" of the expenditure — it is the total-funds expenditure. An LGA is an example of a governmental entity that may certify such expenditures.[2] Expenditures certified by the LGA and used for claiming federal reimbursement under other programs may not be certified for reimbursement of the costs of TCM.

There are other federal rules that bar, or limit, funds from some sources, for example, funds donated by providers who would receive payments from the governmental entity that received the donation. (See Title 42 of the United States Code, Section 1396b(w).) As applied in the TCM context, a CBO may not transfer (i.e., donate) funds to an LGA, where the LGA then uses those funds as a part of the payment to the CBO for TCM services rendered.

LGA Considerations

Expenditures are created once a payment is made by the LGA to provide TCM services to Medi-Cal beneficiaries; this includes qualifying payments made to CBOs to provide TCM services to Medi-Cal beneficiaries (W&I Code Section 14132.44(e)).

For LGAs to certify expenditures for TCM provided by CBOs, the LGA must have made the expenditure certified in payments to the CBOs through TCM contracts. Revenues received directly by a CBO, such as foundation grants and money from private fundraising, are not eligible to be certified because such revenues are not expenditures of a governmental entity. If another governmental entity pays a CBO for services to Medi-Cal beneficiaries, that governmental entity may be able to certify such amounts to DHS.

---

[2] A county or a chartered city is a governmental entity that may be defined as an LGA (Welfare & Institutions [W&I] Code Section 14132.44(o)). An LGA may contract with DHS to provide TCM services to Medi-Cal beneficiaries. An LGA may include any governmental entity within that LGA, such as, but not limited to, Hospital Districts, Local Educational Agencies [LEAs], Prop 10 Commissions that are governmental units, and cities.

The LGA should have the expenditure included in its budget, spend a specific amount, certify that the expenditure has been made to furnish covered services to eligible beneficiaries, and submit an invoice and supporting documentation to DHS. DHS then submits a claim for reimbursement to the federal government and receives FFP for 50 percent of the LGA's actual expenditures. FFP is then paid to the LGA.

If the expenditure is not in the LGA budget, there must be an agreement between the LGA and the CBO. If the CBO providing TCM services has such an agreement with an LGA and if that agreement specifies that the funds paid to the CBO are for the express purpose of providing TCM services, the LGA could certify those expenditures to DHS, and the expenditures could be claimed for federal reimbursement, which, in turn, could be paid to the LGA.

An interagency agreement (IA) or memorandum of understanding (MOU) may exist between a qualified State-level governmental entity (e.g., DHS, Office of AIDS, Department of Aging) and an LGA or CBO. An IA or MOU that places State expenditures directly into a CBO account must specify that those funds are to be used to provide TCM services to Medi-Cal beneficiaries. The LGA must be able, upon request, to produce specific supporting documentation of the eligible expenditures for the activities/services on every invoice (W&I Code Section 14132.44(f)). Both the LGA and the State-level governmental entity must maintain relevant supporting documentation if State-level expenditures are involved.

Eligible expenditures cannot be certified to DHS before the LGA or its contracted CBO provides TCM services to Medi-Cal beneficiaries. Although the funds may have been provided prior to providing TCM services, the expenditures may not be certified until the services are provided. The local governmental entities must expend the total-funds amount of the costs incurred to provide TCM services to Medi-Cal beneficiaries for these costs to be certified to DHS.

If you have any questions, please contact Mr. Roberto B. Martinez, Chief of the Medi-Cal Policy Division, at (916) 552-9400.

Sincerely,

Original Signed by Stan Rosenstein

Stan Rosenstein
Deputy Director
Medical Care Services

cc: See Next Page

cc: Roberto B. Martinez, Chief
Medi-Cal Policy Division
Department of Health Services
1501 Capitol Avenue, Suite 71.4001
MS 4601
PO Box 997417
Sacramento, CA 95899-7417

Ms. Susan Ruiz
Health Insurance Specialist
Department of Health and Human Services
Centers for Medicare & Medicaid Services
75 Hawthorne Street, Fifth Floor
San Francisco, CA 94105

Mr. Brian Burdullis, Accountant
Division of Medicaid and Children's Health
Department of Health and Human Services
Centers for Medicare & Medicaid Services
801 I Street, Room 210
Sacramento, CA 95814

Ms. Cathleen Gentry
LGA MAA/TCM Consultant
455 Pine Avenue
Half Moon Bay, CA 94109